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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,741	01/16/2007	Otto Bosse	10537/328	2477
26646 7590 01/07/2009 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
AMIRI, NAHID				
ART UNIT		PAPER NUMBER		
3679				
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01/07/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/574,741

Applicant(s)

BOSSE ET AL.

Examiner

NAHID AMIRI

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Applicant's Request for Reconsideration received 10 October 2008 is acknowledged. Claims 1-13 are canceled. Claims 14-28 are pending.

Priority

It should be noted that in order for applicant to obtain the benefit of priority based on the priority papers filed in parent Application No. 10346068.3, 10/04/2003 Germany under 35 U.S.C. 119(a)-(d) or (f), an English language translation must be filed in this application.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4-28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no disclosure of it being load-free after the ball completely inserted the ball socket.

Claims 14-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14, line 7 and claim 28, line 9, it is unclear what constitutes "the elastically deformable region is in a load-free state" since what constitutes a "load-free state" has not been defined. Is this concerning internal loads, external loads, etc.?

With respect to claim 14, line 4, it is unclear what constitutes “at least partially spherical interior surface”. Specifically, how much of a spherical surface must be present before one can consider that at least a partially spherical surface is present? Further, when stating “at least partially spherical”, does this mean that the surface in question should be approaching a spherical surface (though not necessarily be a complete sphere) or can the “at least partially spherical” be encompassed within some other and different geometric shape?

Claim Rejections - 35 USC § 102/ 35 USC § 103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

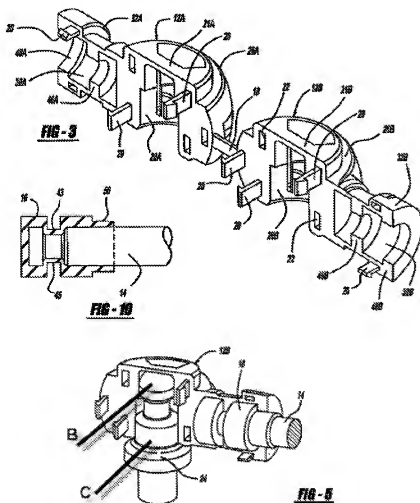
A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 14-28 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over US Patent No. 7,226,234 B2 Gordy et al.

With respect to claims 14-20, Gordy et al. disclose a ball socket (Figs. 3, 5, 10) for receiving a ball (B) comprising a first half-socket (26A) and a second half-socket (26B), each of the first half-socket (26A) and the second half-socket (26B); at least one elastically deformable region (18) integrally formed with the first half-socket (26A) and the second half-socket (26B), wherein the elastically deformable region (18) is in a load-free state when the ball is completely inserted into the ball socket; wherein the elastically deformable region (18) is formed of an elastically deformable material; wherein the elastically deformable region (18) includes an elastically deformable geometry; wherein the ball socket is adapted to cover a ball portion (B) of the ball delimited by at least one circle; and wherein the socket includes at least one gap (constituted by a cover a distance between the first half-socket and the second half socket; an wherein the gap is oriented perpendicular to at least one circle that delimits a ball portion (B) of

the ball that is covered by the ball socket. With respect to the second half socket having at least partially spherical interior surface, the breadth of this recitation (note the inclusion of "at least partially") is deemed to include the interior surface of Gordy et al because a single circumferential line circumscribing the interior thereof is all that is necessary to meet the broad "at least partially" recitation. However, assuming arguendo that the entire interior surface must be of a configuration approaching that of a spherical surface, then it would have been obvious to one of ordinary skill in the art at the time of invention was made, as a matter of engineering design choice, to provide the interior surface of the half-socket of the Gordy et al. with at least partially interior surface in order to provide surface to surface engagement with the spherical portion of the ball.



With respect to claims 21 and 22, Gordy et al. disclose (Figs. 7, 8) that the elastically deformable region (18) is arranged as an elongate portion arranged diagonally with respect to the gap; and wherein the at least one gap includes two gaps (constituted by distance between two end portions of the first and second half sockets. arranged diagonally with respect to one another along a circumference of the ball.

With respect to claims 23-26, Gordy et al. disclose that the elastically deformable region (18) is arranged in one of the two gaps; wherein the elastically deformable region (18) is arranged between a first portion of the circle and a second portion of the circle; and wherein the elastically deformable region (18) includes a thin-walled region.

With respect to claims 27 and 28, Gordy et al. disclose a system (Figs. 3, 5, 10) comprising a rotatably mounted connection arrangement adapted to connect a first part (constituted by a pin 24) to a second part (constituted by parts 12A, 12B), the first part (24) including a ball (B) as a connection element (C), the second part (12A, 12B) including a first half-socket (26A), a second half-socket (26B), each of the first half socket (26A) and the second half-socket (26B) having an at least partially spherical interior surface at least one elastically deformable region (18) integrally formed with the first half-socket (236A) and the second half-socket (26B), wherein the elastically deformable region (18) is in a load-free state when the ball is completely inserted into the ball socket.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 14-26 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 4,471,982 Nielsen, Jr.

With respect to claims 14-20, Nielsen, Jr. discloses a socket (43, Figs. 2, 3) which capable of receiving a ball comprising a first half-socket (45) and a second half-socket (47), each

With respect to claims 21 and 22, Nielsen, Jr. discloses (Figs. 2, 3) that the elastically deformable region (57) is arranged as an elongate portion arranged diagonally with respect to the gap; and wherein the at least one gap includes two gaps (constituted by distance between two end portions of the first and second half sockets (45, 47) which inherently could arranged diagonally with respect to one another along a circumference of the ball.

With respect to claims 23-26, Nielsen, Jr. discloses (Figs. 2, 3) that the elastically deformable region (57) is arranged in one of the two gaps (defined be distances between two half-sockets; wherein the elastically deformable region (57) is arranged between a first portion of the circle and a second portion of the circle; and wherein the elastically deformable region (57) includes a thin-walled region.

Response to Arguments

Applicant's arguments with respect to claims 14-28 have been considered but are moot in view of the new ground(s) of rejection.

With respect claims 14-28, Applicants argue that the date of Gordy et al. is after the international filing date of the present Application. Therefore, Gordy et al. do not qualify as a reference under 102(a). Further, Applicants argue that the first and second half-sockets of Gordy et al. do not have partially spherical outer surfaces and Figs. 3 to 6 of Gordy et al. show the inner surfaces of housing where the pin mates with housing pieces 12A, 12B are mainly cylindrical and not spherical at all. Further, Applicants argue that when the ball portion of Gordy et al is completely inserted into assembled main portions 26A, 26B, the internal hinge 18 is flexed and, therefore, not in a load-free state. This is not persuasive.

Examiner points out that the previous 35 U.S.C. § 102(a) reference was in error and new rejection properly referring to 35 U.S.C. § 102(e) has been set forth.

With respect to the "at least partially spherical" recitation, Examiner notes that it is unclear what exactly constitutes the second half-socket having at least partially spherical. Meanwhile, Fig. 3 shows clearly the inside of the housing pieces 12A, 12B is at least partially

spherical, in the broad sense, along any single circumference line of the interior and when the ball portion inserted into the ball socket the hinge 18 would be in a load-free state.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nahid Amiri whose telephone number is (571) 272-8113. The examiner can normally be reached on Monday through Thursday from 8:00-6:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nahid Amiri
Examiner
Art Unit 3679
December 26, 2008

/Daniel P. Stodola/
Supervisory Patent Examiner, Art Unit 3679